

**OPINION
66-100**

February 28, 1966 (OPINION)

Mr. James O. Fine

Chairman

Board of Administration

RE: Grafton State School - Cost of Care and Treatment Collection

This is in response to your request for an opinion of this office in regard to disposition of moneys received for cost of care and treatment of a patient at the Grafton State School.

You indicate that the board of administration has in its possession a check for \$1,030.00 remitted for the cost of care and treatment of a patient at the Grafton state school. The patient has been institutionalized in the Grafton state school from May 26, 1947, to the present date. The cost of care for this patient has been paid in full for the period July 1, 1961, through June 30, 1963.

Your questions are stated as:

- "1. Can the board of administration collect for the cost of patient care for any patient institutionalized prior to July 1, 1961, as a current claim, or must these obligations be collected from the estate of a responsible relative"
- "2. What amount can be collected from responsible relatives or their estates for cost of care furnished prior to 1961. (statutory provided amount of \$20.00 per month, or the actual cost of care?)
- "3. May any portion of the above described check be applied to the cost of care furnished this patient for the period after July 1, 1963."

Your letter does not disclose the source of the check to which you make reference. Section 25-09-11 of the 1965 Supplement to the North Dakota Century Code may apply. Said section provides in part:

"* * * Such deduction shall continue for a period of fifteen years after the date of the first admission of each patient to the state school or until the patient reaches his twenty-first birthday, whichever shall first occur. * * * After the passage of the above-mentioned fifteen-year period, or after such patient reaches his twenty-first birthday, whichever shall first occur, claims against responsible relatives shall be terminated against said responsible relatives but actual costs of care and treatment shall accrue against the estate of the responsible relatives from this date. * * *."

Thus if the check is from a responsible relative, rather than from a responsible relative's estate, it would appear that either under the

above-quoted provision or similar provisions of chapter 223, section 1 of the 1963 Session Laws same could not be applied to current claims against this patient insofar as he has apparently been institutionalized as of July 1, 1963, for a period of more than fifteen years. In other instances, i.e., if the check is from the patient himself or the estate of a responsible relative same can be applied to current claims.

From 1947 to July 1, 1961, section 25-0409 of the North Dakota Revised Code of 1943, then in effect, provided:

"EXPENSE FOR CARE OF INMATES TO BE CHARGED UPON COUNTY; COUNTY TO REMIT TO STATE TREASURER. The expense of the care, board, and treatment of each inmate in the state school shall be a charge upon the county from which the inmate is sent. A county shall pay to the state treasurer the sum of twenty dollars per month for the care and treatment of each inmate sent from the county to the state school."

From 1917 to 1961, section 25-0822 of the North Dakota Revised Code of 1943, then in effect, provided:

"PERSONS RESPONSIBLE FOR SUPPORT OF FEEBLE-MINDED SHALL PAY FOR CARE. The person legally responsible for the support of any patient at the state school shall pay to the county treasurer monthly, for the use of the county or state, the amount properly chargeable for the care of such patient at such institution. The county treasurer shall retain for the county such amounts as may have been paid by the county on account of such care and shall remit the balance to the state treasurer. If the person liable to pay such amount fails or neglects to make payment upon demand by the county auditor, the board of county commissioners shall direct the state's attorney to bring suit for the recovery of such payments as are delinquent."

On such basis, it is our opinion that such statutory provision limits the amount chargeable for the pre-July 1, 1961 period to \$20.00 per month per patient.

Thus in regard to utilization of the check currently in your possession it is our opinion that your first question must be answered in the affirmative subject to the exception heretofore noted where the patient has reached his twenty-first birthday or has been a patient for more than fifteen years; your second question must be answered \$20.00 per month, and your third question must be answered in the negative.

HELGI JOHANNESON

Attorney General